

Police vol 14

CONSIDERATIONS
ON THE
DEFECTS OF PRISONS,
AND THEIR
PRESENT SYSTEM OF REGULATION,

SUBMITTED TO THE ATTENTION OF THE
GENTLEMEN OF THE COUNTY OF GLOSTER,

IN THE
COURSE OF THEIR PROCEEDINGS

ON A
PLAN OF REFORM,

TO WHICH ARE ADDED,

Some GENERAL REFLECTIONS on the SUBJECT;

ADDRESSED TO THE
MEMBERS OF THE LEGISLATURE.

By Sir. G. O. PAUL.

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GLOUCESTERSHIRE.

LENT ASSIZES, 1783.

Grand Jury Chamber, March 29.

THE Gentlemen of the Grand Jury, on Enquiry into the Causes of the present unfortunate State of Health of the Prisoners in the County Gaol,—are unanimously of Opinion :

THAT not only the Sickness of the Prisoners, but, also, the General Increase of Immorality, and Outrage, is in a great Measure owing to the useless State of the Houses of Correction, and the consequent indiscriminate Mode of Confinement in the County Gaol;—

THAT, whilst Persons committed for Fines and the lesser Offences, are associated with desperate and daring Offenders—the Confinement (intended for their Correction) can prove no other than a Seminary of Vice, and a certain Introduction to the most infamous Practices;

THAT, it is inconsistent with the Humanity and wise Discrimination of the Spirit of our Laws, that the *Unfortunate* should share a Common Fate with the *Infamous*, or that the barely *Accused* should, without Distinction, be classed with the *convicted* Prisoner;

It

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It appears to them, that in the present abandoned State of **Morals**, little Reform can be expected from the most active Exertions of the Magistrate, unless they are seconded by providing proper Places of Confinement and Discipline, similar to those recommended by the humane and intelligent Mr. HOWARD.

CONVINCED as they are of the Necessity of a speedy Remedy, it is evident no Steps should be taken without the general Approbation, (as none can be effectual without the active Concurrence) of the Persons of principal Landed Property in the County;—To them therefore the present Grand Jury think it their Duty to submit their Opinions, and they further recommend a Reconsideration of the Subject to the Grand Jury at the Summer Assize;—Previous to which, it may be presumed the Importance of the Object will prompt the Gentlemen concerned, to compare the End to be obtained with the Means of obtaining, and the general Sense of the Public on the Undertaking may then be ascertained.

Signed by Request of the Gentlemen of the Jury.

G. O. PAUL, FOREMAN.

Should I be so fortunate as to fix the

serious Attention of any Member of the
Legislative Body on the miserable State
of this Part of our National Politics: I
shall feel justified in my Attempt, and

THE following Pages, originally
designed for the Use of a parti-
cular County, I should, by no Means,
have presumed to offer to more general
Attention, but at the Request of many
respectable Members of Parliament, and
other Friends to a general Operation of
the Reform recommended.

If, indeed, (as appears from Mr. How-
ARD's Publication) the Defects in Insti-
tution of the Prisons within the County
of Gloster, are, in a greater or less Degree,
Defects that prevail throughout the King-
dom; Arguments, drawn from local
Circumstances, will be of general Ap-
plication, and may be of general Uti-
lity.

SHOULD

P R E F A C E.

SHOULD I be so fortunate as to fix the serious Attention of any Member of the Legislative Body on the miserable State of this Part of our National Police; I shall feel justified in my Attempt, and, with Diffidence, submit all Errors of Detail to the Candor of the Public.

AN
ADDRESS
TO THE
GRAND JURY.

ADDRESS

TO THE

GRAND JURY.

**TO THE
GENTLEMEN
OF THE
GRAND JURY,
FOR THE
COUNTY OF GLOCESTER,
AT THE
SUMMER ASSIZES, 1783.**

THE State of Health of the Prisoners in the County Gaol, during the last Spring Affize, was so shocking to Humanity, and so injurious an Impediment to the Course of public Justice,—that it could not but appear to the Gentlemen of the Jury, as an essential Part of their Duty, to enquire into the Causes of so fatal an Effect. On their Enquiry, there appeared no Neglect in the Officers of the Prison; but that putrid Distempers were a natural Consequence, to which a full Gaol, with its present Defects, might at any time subject its Inhabitants.

LONG convinced of the Incompetency of the Prisons of this County, to every Purpose of public Justice and Reformation, as well as of their Inconsistency with every Principle of Humanity and Benevolence; I took that Opportunity to offer some general Propositions on the Subject;—the cordial Reception they met with from the very respectable Body of Magistrates present, convinced me that it was Ignorance of the melancholy Facts, with, perhaps, an indolent Dread of meeting the Difficulties attending the Execution of extensive Reform, that had so long permitted them to lie under the Stigma of neglecting to correct the notorious Abuses of many of the worst appointed Prisons in this, or any other Country.

THE Propriety of Reform, on a great and general Plan, (supported by the liberal Proposals of a Gentleman, who, on any local Improvement of our County Gaol, must be materially consulted,) met with such unanimous Concurrence, that I received Instructions to promote the Consideration of the Subject at the ensuing Assize, by publishing an Advertisement as at the Instance of the Grand Jury present.*

THESE Directions I obeyed as far as I thought myself authorised to do,—and, as the Adver-

* Vide Advertisement prefixed to this Address.

tisement has been seconded by an Address to the County, which (though modestly anonymous) I may be allowed to impute to a Gentleman, whose Zeal in Intention for the public Good, is fully equalled by his Powers of Judgment in Execution; I may presume an essential further Consideration of the Subject will take Place. Although I might best serve the Cause, to which I wish so well, by submitting the Conduct of it to Persons, who, with equal good Intentions, possess a Weight of Property and Consequence within the County, that would best ensure the public Confidence; yet, as my Name has appeared to a general Statement of Reasons, I shall take the Liberty of submitting to you my Thoughts more at large on the general Proposition of Reform of County Prisons;—begging to be understood that by *Reform* I mean nothing less, than a general and entire Correction of the *Principles* of Prisons; as well of those for the *lesser* as for the *greater* Crimes,—the Police of those Prisons when built, and the Plan of Super-intendance afterwards;—for nothing less is it worth while to put the County to the Expence of any material Alteration, for, nothing less can produce that Reform of Manners, that Return of good Order and Obedience to Law, which are so essential to the general Interests of civil Society.

I TRUST no public Meeting in this County will ever again indolently separate, without a

further Investigation of the Subject now brought into Question ; if it does, it will no longer be from Ignorance of the unjust and indiscriminate Miseries of their Fellow-Creatures, or from the Neglect of considering the Incompetency of the present Means, to the End proposed by Confinement;—It shall not be for Want of the Suggestion, that, whilst the Conduct of Prisons is by the Laws intrusted to our Direction, every Suffering, not warranted by the *Spirit* as well as *Letter* of the Law, is extrajudicial Punishment, for which we are answerable to injured Humanity.

It is impossible to enter on this Subject, without paying a Tribute of Respect to the incomparable Mr. HOWARD, the presiding Genius of Reform of these melancholy Mansions of Oppression and Distress ; whose disinterested and diffusive Philanthropy is scarcely unknown to any, yet probably not sufficiently attended to by those, for whom his Researches and Observations are intended : To him all future Reformers are indebted for seeing what they see, and feeling what they feel : They only reflect the Rays of his Benevolence on Mankind.—It is now ten Years, that, from an Impression on the Subject, when Sheriff of the County of *Bedford*, he took the Resolution to visit (with what personal Risk, his own Account will best explain) the Prisons of *England* ; since which
Time,

Time, not content with pursuing Misery into every the most nauseous Dungeon of the remotest Prison of *these* Kingdoms, (but seeing the same Spirit of Abuse and Neglect pervade them all, without one Precedent of Reform) he took the Resolution to extend his Investigation to the Prisons of the more arbitrary States of *Europe*:—He there found innumerable Instances of Examples worthy Imitation, not one that did Credit to this Country, on Comparison.—His Observations he has laid before the World, with a laborious precision, that vouches for their Authenticity, and will justify a Reasoning on the Facts, without further Enquiry.—He is now continuing his Pursuits in *Ireland*, with Intent to re-publish his Works, with additional Observations on the Gaols he has revisited.—He has already favoured a Gentleman with his intended Remark on our County Prison, “ That
“ it has all the Imperfections he had ten Years
“ before submitted to the Public.”*

AFTER such an Introduction, I shall probably be conceived the Favourer of an abstract System

* His humane Representations were heard before Parliament, and produced two Statutes of the 14th Geo. III. The one *for the Relief from Fees of Prisoners acquitted*; the other, *for preserving the Health of Prisoners*,—on which Acts there is a Note of Mr. BURNE’S so much to the Purpose, that I cannot but refer the Reader to it, in P. 344. Vol. 2, last Edition.

of Humanity, inadmissible in Practice; of a Doctrine that would weaken the Dread of Confinement, and destroy the Purposes of Justice:—

By no Means:—I am not of the Number of those, who, from a mis-placed Tenderness of Heart, would unbind the just Terrors of the Law:—I am far from thinking that Prisons should be Places of *Comfort*:—They should be Places of real Terror, to those, whom the Laws would terrify; of Punishment to those, whom they would punish; but of mere, though secure, Confinement to those, whom, on just Grounds of Suspicion, the Police thinks fit to confine for further Examination.

I would, if it were possible, that Prisons should be as distinct as the Nature of Offences;—that *no* Culprit might escape the just Sentence of the Law from want of due Means to inflict it.——I plead only for just Discrimination:—we should not then see the hardened Villain, who has forfeited his Life to the injured Laws of Society, abusing the Mercy of his Sovereign, by instructing young and ignorant Offenders in Acts that brought him to his condemnation:——We should not find him revelling in Drunkenness among his Fellows, because the Wages of his former Iniquities have procured him a Fund for its Support:—We should not see the young Offender (detected perhaps in his first Attempt)

Attempt) listening to the experienced Tale that confirms him in his Infamy:—We should not condemn to Chains, and a loathsome Cell for six Months, a Man, suspected of a Crime, from which his Country, at the End of that Term, perhaps, honourably acquits him;—nor could we, with any Regard to distributive Justice, place the unfortunate Debtor (the Victim of mere Misfortune) in a worse State than the convicted Malefactor, and leave him only to regret that he had not supplied those Wants, which placed him there, by Means that feed his Fellow-Prisoner.—Is it for Purposes of Reformation that the Idle are sent to Prisons without Work? Or that the Lewd should pass their Time with those of the other Sex, guilty of the same Propensity? And what is it less than palpable Absurdity, to commit a penniless Offender “*till he pays a Fine,*” and deny him the Exercise of his Art and Industry, to enable him to redeem his Liberty?

It, surely, cannot be denied that Prisons should, in their Construction and Police, be strictly consonant to the Spirit of that Law for whose Purposes they exist—that they should dispense, with all possible Precision, the Proportion of Sentence that the Law prescribes. Minute Discrimination of Offence and Punishment is so essential a Principle of *English* Legislation, that it sacrifices to it much of that Simplicity and Conciseness, which would add to
its

its Beauty and Perfection ; ——— a Sacrifice that might well be dispensed with, if, in the Onset of the Execution, its Purposes are rendered nugatory by the Structure of our Prisons. ———

I SHALL, therefore, *first* consider how far the SPIRIT of the Law of *England* implies a Principle of Discrimination, and an attention to Humanity, in the various Sentences to Imprisonment : — *Secondly*, How far the STATUTES have *positively enjoined* such a Principle and such an Attention : — *Thirdly*, I shall proceed to remark what Prisons *should be* in Effect : — *Fourthly*, Their *actual* State : — And *lastly*, conclude with a few Words in Encouragement of Reform.

I. UNDER the *British* Constitution it is indispensable to Justice, that Proof of Criminality under all the Forms of Law, should precede Punishment : — Such Proof obtained, CONFINEMENT TO PUNISH should also be Confinement to reform ; It should be a State of continual Labour, and of total Seclusion from Society ; — by the former to create a Habit of Industry, — by the latter to force Reflection on the Mind : But CONFINEMENT ON SUSPICION, justifiable as a Mode of Security of the Person for that Trial, which

which must decide between the Accused and the Accuser, is *not* justifiable in any Means that go beyond such Purpose:—It is, therefore, a palpable Inattention to distributive Justice, to place these two Classes of Prisoners in similar Circumstances.—Confinement is, at best, a Degree of Punishment; and it is the proudest Privilege of the Law of *England* to be so scrupulously jealous of this Violation of personal Liberty—that where a pecuniary Pledge can be allowed sufficient Security, the personal is dispensed with:—“This Commitment” (says Sir W. BLACKSTONE) “being *only* for “*safe* Custody, wherever Bail will answer the “same Intention, it ought to be taken.”* “The Privation of Liberty being a Punishment, it should be inflicted before Sentence, “with as much Tenderness, as the Necessity of “the Case will permit.”†

THE Intent of the Law respecting the Class of Prisoners CONFINED ON SUSPICION, being purely *ad custodiam*, no legal Means should be neglected to render that Custody secure;—but every Suffering from Neglect or Abuse, which exceeds such intent, is an Oppression; it is a Cruelty, not only unwarrantable by Law, but

* Book iv. Cap. 22.

† Beccaria, Sect. 19, Page 22.

totally repugnant to the Spirit of the Constitution.*

THE Delicacy of the Law in presuming Guilt in such Prisoners, is sufficiently marked by the Nature of the Oath we have taken, and the Inquisition on which we are sitting:—On the Probability that an Accusation may be false, either through Malice or Mistake, our Constitution ordains, that it shall be investigated by a Jury of Persons, supposed of the most liberal Education, that, if any Defect appear in the Evidence, the innocent Man may not even be arraigned before his Country.——What a humane Attention of *British* Legislation!—yet, how absurd! unless the present Conduct of our Prisons be a monstrous Abuse;—it frequently happens that the Verdict of our honourable Acquittal is announced to a Wretch expiring in the Agonies of pestilential Disease, or so reduced

* “It is the proper End of Custody to keep those, who are accused of Injuries to Society, amenable to the Decisions of Justice. But as Accusations are not Proofs; and as Innocence is to be presumed in every Stage of the Charge, previous to the Conviction of Guilt, the utmost Tenderness and Lenity are due to the Person of the Prisoner: And here it should also be observed, that it is contrary to public Justice, and public Utility, to throw the Accused and Convicted, the Innocent and the Guilty, into the same Dungeon.”

Eden, Pen. Law, c. 6. p. 51.

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by Hunger and Despair, that the Freedom we award him is become a thankless Boon.—Are these our tender Mercies? Is it for this we quit our domestic Affairs? And is it thus we watch over the Rights of our Fellow Citizens? conscientiously zealous to prevent the Feelings of public Trial to a Being, to whom we have already permitted a six Month's Captivity, associating with, and equally sharing the Punishments of, the Convicted.*

WITHIN Sight of that Prison, where Custom seems even to have justified the Use of Irons on accused Prisoners, where, within the hopeless Limits the Law has reluctantly decreed, they crawl encumbered with this arbitrary Addition,—it is not without Risk of Censure, as a visionary Reformer, that I beg you to reflect, that under the greatest Authority in the Law, the Police of a Prison, that authorizes the habitual Use of Fetters, is illegal.

* THAT this Picture is not overcharged, it is only necessary to state that, at the last Assize, eleven Bills were found against Prisoners, in such a bad State of Health, that they could not take their Trials;—and it is a Fact, that two Prisoners were expiring, whilst the Grand Jury were examining their Indictments, and were actually dead, before the Bills were returned into Court.

During the last ten Months, fourteen Prisoners have died of the Small-Pox and Gaol-Distemper, of whom seven were Persons unconvicted of any Crime,—three were Fines—three Debtors—and one Convict.

JUDGE.

JUDGE BLACKSTONE, who will hardly be suspected of Doctrines subversive of Authority, (speaking of Commitment before Trial) says †; “ But this Imprisonment is only for safe Custody, and not for Punishment : Therefore, in this dubious Interval between Commitment and Trial, a Prisoner ought to be used with the utmost Humanity ; and neither be loaded with needless Fetters, nor subjected to other Hardships, than such as are absolutely requisite for the Purpose of Confinement only : Though what are so requisite must too often be left to the Discretion of the Gaolers, who are frequently a merciless Race of Men, and, by being conversant in Scenes of Misery, steeled against any tender Sensation.—Yet the Law will not justify them in fettering a Prisoner, unless where he is unruly, or has attempted an Escape : This being the humane Language of our ancient Lawgivers, *Custodes pœnam sibi commissorum non augeant, nec eos torqueant ; sed omni sævitia remota, pietateque adhibita, judicia debite exequantur.*”—And again—“ *Though under an Indictment of the highest Nature, the Prisoner must be brought to the Bar without Irons, or any Manner of Shackles or Bonds, unless there be evident Danger of an Escape.”

† B. IV. C. 22.

* BLACK. B. IV. C. 25.

THE learned Editor of HALE's History observes, "That Fetters ought not to be used but
 "where the Officer has just Reason to fear an
 "Escape, as where the Prisoner is unruly, or
 "makes an Attempt to that Purpose, but
 "otherwise it seems altogether unwarrantable
 "and contrary to the Mildness and Humanity
 "of the Laws of *England* by which Gaolers are
 "forbidden to put their Prisoners to any Pain
 "or Torment."

AND Lord COKE, 2 Inst. 381, says, "By the
 "Common Law it may not be done.* If the
 "Gaoler keeps the Prisoner more strictly than
 "he ought, whereof he dies, this is Felony in
 "the Gaoler by the Common Law, 3 Inst. 91.
 "FOSTER, 321, 322."

IN the Report of the Gaol Committee, it appears, that on Petition to the Judges, by one who had been put in Irons, the Judges declared, "That a Gaoler could not answer the ironing of a Man, before he is found guilty of a
 "Crime."†

"GRAND abusion est, que prisonner soit
 "charge de ferres ou mise en peine avant ceo
 "qui soit atteint de Felony."‡

* Vide BURNES, Vol. II. p. 340, 341.

† Vide HOWARD, p. 18.

‡ MYRROR, c. 5. §. 1. 54.

THE safe Custody of Prisoners is doubtless an Object of the first Importance, and must be obtained;—but that safe Custody is presumed to arise from the Construction of our Prisons, and the Attention of the Keepers.—Lord Chief Justice KING's Reply to the Gaolers, who complained of his Injunction of the Use of Dungeons, is short, and to the Purpose,—“ That they might raise their “ Walls higher.”

If it be the Right of an unconvicted Prisoner to be without Chains, the Necessity which imposes them, is indeed a “ Tyrant's Plea,” whilst it arises from our own Neglect.

THE Power of Habit, to mislead our Perceptions of the simplest Ideas, is no where more evident, than in that there is rarely an Assize, but, on this Jury, we receive Evidence from Men in Chains; and this without producing the least Emotion at its Inconsistency:—We, on this most solemn Occasion, admit the Credibility of a Being, whilst degraded below brutal Nature: In receiving his Evidence, we suppose him unconvicted of Crime, and yet see him stand before us, suffering a corporal Punishment.

THE Exemption, that, within the Gates of every Prison, we see granted to those, who have the Ability to purchase it, is a sufficient Proof, that,

bad as are the Prisons of this Kingdom, there are few in which Irons are absolutely necessary.

In Fact, Irons, with their various Affortments, and Prices of Dispensation, are a mere System of official Tyranny, for the Purpose of Extortion, or to supply the Defects of Duty.

There is no one who doubts but that this Portion of Misery is dealt out more for the Purpose of Profit, than Security.

Mr. HOWARD mentions a Prison, where, within a very few Years, the Gaoler ensured the Custody of his Prisoners by chaining them "down on their Backs upon a Floor, across which were several Iron Bars, an Iron Collar with Spikes about their Necks, and a heavy Iron Bar over their Legs." That every other Gaoler has not a similar Ingenuity, is more the Merit of his own Humanity, than of any positive Regulation to the contrary.

LATE Experience must convince us, that without Care and Fidelity in the Keepers, even our Irons are of little Effect. The cruel Permission has not ensured this County from Escapes; nor has the Dispensation from the Custom in other Counties, been attended with any bad Consequences.—When the Gentle-

men
Belonging to the Bishoprick of Ex.

men of *Cornwall*, by Construction of a new Prison, "erected a Monument to their Humanity,"* they endowed it with this, amongst other merciful Regulations, "That Irons be provided at the County Expence, and kept ready, but not used, except they are absolutely necessary for Punishment or Security."

IN the various Prisons Mr. HOWARD visited on the Continent, he saw no Chains, except in one or two particular Instances;† but, when returned, he remarks at *Salisbury*, "two Crown-Debtors coupled together, and chained to the outward Door of the Prison, begging Alms of the Passengers."

WITH respect to PRISONERS FOR DEBT, it is not a Question at this Time to arraign the Equity of our Laws, in ordaining Loss of Liberty to Debtors, without respect to Merit in their Conduct: It is sufficient that it has so ordained; with us it rests only to see the Sentence of the Law, measured to them in Mercy.

HOWARD, P. 353.

† "IN or near *Paris* I was surprized at seeing none of the Prisoners in Irons. No Gaoler may put them on any Prisoner, without exprefs Order from the Judge; and yet, in some of the Prisons, there were more Prisoners than in any of the *London* Gaols."—HOWARD, p. 137.

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THE Law has decreed Imprisonment for Debt; but has not aggravated this Loss of Liberty, by Loss of Health, (perhaps of Life) by Disease and Famine; * it has not ordained the Situation, (degrading to an innocent Man) of being indiscriminately associated with Men, guilty of the foulest Crimes;—as Debtors, they have broken no moral Law, offended no positive Institution; doomed, by Folly or Misfortune, to be the necessary Sacrifices to commercial Faith, they claim an abundant Share of our Pity and Attention.

WITH respect to the INFERIOR CLASS of CRIMINALS, Offenders against the public Peace, public Order, and public Industry, &c. the Intent of the Law, as to the Nature of their Prisons, is clearly marked in the Words of their Sentence. To most, I believe it runs, “they shall be committed to the House of Correction, —to hard Labour, &c.” —From whence it is sufficiently clear, that the Purpose of the Law is to reform their Manners, and restore them better Members to Society. —How far these Purposes are answered, needs not my Comment.

—It is sufficiently notorious, that the only

• Within the last eight Months, two Debtors have perished by the Gaol Fever, and one by the Small Pox. Since this Address many other Debtors have died. *Vide* 2d. Address.

Prison of Safety, within this County, is that, in which it will not be contended there are any Hopes of Amendment; in which there is no Possibility of Industry;—and in which only the Intention of the Law is fulfilled, if it design by Punishment to *resent* the Injury, not *correct* the Offender.

EVERY Magistrate must doubtless bear in his Mind, that the Purposes of Revenge and Persecution are foreign to the Spirit of Law.

Revenge is so natural to the Disposition of Man, that it is the Intent of legal Institution to prevent its Operation.

A man may *revenge* himself, but it is probable the Law alone will do him *Justice*

—“ The End (says Sir WILLIAM BLACK-

“ STONE,) or final Cause of human Punishment,

is not by Way of Atonement or Expiation for

“ the Crime committed (that must be left to

“ the just Determination of a Supreme Being)

“ but as a Precaution against future Offences

“ of the same Kind. This is effected three

“ Ways;—either by Amendment of the Of-

“ fender himself;—by deterring others, by

“ Dread of his Example, from offending in the

“ like Way;—and, lastly, by depriving the

“ Party injured, of the Power of future Mil-

“ chief.—The Method, however, of inflicting

“ Punishments ought always to be proportioned

“ to the particular Purpose it is meant to serve,

“ and

“and by no Means to exceed it.” † In every Species of Punishment, where the Purpose is Correction, it appears, that the Situation should be calculated to produce Reflection; the food such, as will support Life, and preserve Health, but by no Means animate the Spirits. Dejection and Solitude are the natural Parents of Reflection.—Air and Light we should not refuse to a human Being, who is suffered to live, and who patiently submits to his Doom. Scenes of Gloom and Horror may be provided, but only as a Terror to the Refractory, and as Aids to the Police of the Prison,

THE SECURITY OF HEALTH, to every Species of Prisoner, can need no Argument to reconcile it to our Attention.—“Forasmuch” (says Mr BURNING) as the Gaol is intended in most Cases for Custody, and not for Punishment; and Confinement itself, in such dismal Abodes, is sufficiently afflictive and disconsolate, human Nature will plead for those miserable Objects, that their Condition be rendered as tolerable as the Case will admit of, particularly with regard to Cleanliness, which is the Parent of Health; and whole-some Air, which is Life itself.”

STRICT Attention to this Particular seems enforced by every Consideration:—it is the

Blackstone, Book iv. C. 1.

common Right of Humanity towards the Prisoner;—it is sound Policy;—it is a Duty we owe to the innocent Families, to whom temporary Prisoners return;—and to our Fleets and Armies, to which Inhabitants of our Gaols are frequently sent;—and lastly, it is a necessary Precaution for ourselves, who, in the Capacity of Magistrates, or on our Duty as Jurymen, must frequently meet the Dangers of Pestilence, generated from a Want of Attention in this Point.

1. To the Prisoner, it is more than Humanity, it is Justice.—You can no more add an Atom of Punishment to the Sentence of the Law, than you can inflict a Punishment on one absolutely innocent.—Nay, this Duty is more than *negative*; it appears by the Language of various Statutes, that it is the *positive* Duty of the Magistrates to see that the Sentence of the Law be justly administered.—No Sentence, under the *British* Dispensation, is so cruel as to condemn a Man to Death by Famine, to languish in Disease, or to be emaciated in Filth and Vermin; and yet, this is frequently the unintentional Effect of a humane Appeal to Mercy in Favour of a condemned Malefactor;—and what is still more shocking, but not less true, it is sometimes the eventual Punishment for Bastardy; for snaring a Hare; for avoiding a Turnpike; for selling a Pint of Ale;

Alc. &c. *—The Sheriff, who should even change the Mode of Death of a Man sentenced to be hanged, would be guilty of Felony (*Vide* BLACKSTONE.) What shall we say of the Neglect, that destroys the Life, not forfeited by Law? The Distinction betwixt Commission and Omission, tho' material as to the Criminality of the Cause, is to the suffering Object, merely casuistical.

2. It is sound Policy, to preserve the Health of those, to whom Life remains, that they may return to serve Society, and maintain themselves.

3. THAT it is a Duty to the absent Families of Prisoners, need not to be urged to Gentlemen resident in the country †.

4. THAT it is a Duty to our Country, as concerning our Fleets and Armies, can be proved by every Officer, who served in the last War:—One Instance has been authentically related to me: A Regiment, raised on the Spur of the Occasion for *West-India* Service, and

* Three Persons under this Description have actually died of Distemper, within the last eight Months.

† At *Azminster*, in 1755, a Prisoner, discharged from *Exeter* Gaol, infected his whole Family with the Gaol Disease, of which two died, and many others in the Town.

p. 12. HOWARD. And *vide* ad. Address.

scientifically supplied from various Prisons, embarked 700 Men;—The Gout Fever immediately spread itself through the whole Embarkation, and raged with such fatal Effects, that it arrived at its Destination with only 40 Men.

5. THAT the Health and fresh Air of Prisons are not uninteresting to ourselves; there are numerous melancholy Proofs. Sir M. FOSTER mentions one very singular, in the Case of a Mr. CLERK, who was tried at the *Old Bailey*, in April 1750.—“Many People, who were in Court, were sensibly affected with a very not-
“some smell.—Within a Week after the Sessions many People were seized with a Fever
“of the malignant Kind, and few who were
“seized recovered. The Persons who died were
“Sir SAMUEL PENANT, Lord Mayor,—the
“two Judges, Sir THO. ARDEY, of the Common Pleas, and Mr. CLERK, a Baron of the
“Exchequer; Sir DANIEL LAMBERT, Alderman; a Gentleman of the Bar; the Under-Sheriff; several of the Jury; and about 40
“others—(FOST. 74.)”

AT AN AFFIRE at Oxford, 1577, called from its Consequence, *The Black Affire*, all who were present

• Dr. LIND, in his *Essay on the Plethors of Statues*, there,
“That the Southe of Infection to our Pleth and Affires,
“are

present died in 48 Hours, the Judge, the Sheriff, and about 300 others (Baker's Chronicle, p. 853.)

At *Taunton* in 1730, some Prisoners infected the Court; and the Judges, the Sheriff, a Serjeant, and some Hundred others died.—Howard, p. 12.)

Mr. Howard has computed that many more are destroyed by the Gaol Fever than by Executions in this Kingdom.—And the Calculation holds very strongly in *Gloucestershire*, where it appears that of late the Proportion has been as three dead of Distemper to one executed.*

II. HAVING stated what seems implied by the SPIRIT of our Law, and the simplest Dictates of Humanity;—let us examine what the STATUTES have enjoined on the Subject.

By *Habeas Corpus*, 30 C. II. c. 2. "Persons committed for Treason or Felony shall be brought to Trial the first Sessions of Oyer and Terminer after such Commitment."

"are undoubtedly our Jails. The first *English Fleet*, sent last War to *America*, lost by it 2000 Men."—Howard, p. 12.

* It appears by Mr. Howard that the Gaol Distemper is not known in the Prisons abroad.

By the 11 and 12 of Will. III. "The Justices of the Peace, or the greater Number of them, within the Limits of their Commissions, (on Presentment of the Grand Jury at the Assizes) may contract with any Person for building or repairing the Gaol, &c."

AND, by the 7 J. c. 4. and 17. G. II. c. 5. "The Justices are enjoined to provide sufficient Bridewells; and they are empowered to proceed" as for County Gaols, &c.

By the 14 Eliz. c. 5. and 12 G. II. "Prisoners shall be provided for out of the general County Rate, &c."

By the 19 C. II. and 12 G. II. c. 29. "Justices, in their Sessions, may provide a Stock of Materials for setting the Poor to work, &c."

By 12 G. II. § 29. "Justices, in their Quarter Sessions, shall have Power and Authority to make one general Rate or Assessment, as they, in their Discretion, shall think necessary to answer all and every Purpose of the above recited Acts."

By 24 G. II. c. 40. "No Licence shall be granted for retailing Spirituous Liquors within the said Gaol or Prison, and if the Gaoler shall sell, use, or give away any, he shall forfeit 100l." And a Copy of the Clauses of the Act shall be hung up in each Gaol, under the Penalty of 40s.

By

By 22 and 23 CH. II. " A Gaoler shall not keep or lodge Prisoners for Debt and Felons together, &c. under Pain of Forfeiture of Office and treble Damages."

By 14 G. III. c. 59. " Whereas the malignant Fever, commonly called the Gaol Distemper, is owing to a Want of Cleanliness and fresh Air, &c. Be it Enacted, that the Justices, in their Sessions, shall order the Walls and Ceilings of the different Cells to be scraped and white-washed once in the Year, at least, and supplied with fresh Air by Hand Ventilators or otherwise, and shall order two Rooms in each Prison to be set apart for the Sick; that they shall order warm and cold Baths to be provided, and no Prisoner to go out without being first washed;—and that this Act be printed in legible Characters, and hung up within the Walls of the Prison; and if the Gaoler disobeys, he shall be proceeded against in a summary Way, and pay such Fine as the Court shall impose. — They shall appoint an experienced Surgeon or Apothecary to each Prison, who shall report to the Quarter Sessions the Health of the Prisoners."

By the 14 of G. III. c. 20. " Every Prisoner, against whom no Bill is found by the Grand Jury, or who shall be acquitted on Trial, shall be set at Liberty in open Court, without paying any Fee, or Sum of Money whatsoever, to Sheriff

Sheriff or Gaoler, in respect of such Discharge,
 &c."

AND by the humane Act of the 22 G. II. c. 2.
 called the *Lords' Act*, the Situation of Debtors
 is intended to be made very supportable. —

"The Gaoler shall permit a Debtor to send
 for, or be supplied with any Necessaries, with-
 out putting any Restraint, or demanding any
 Fee, for the same. The Justices in their Quar-
 ter Sessions shall establish a Table of Rates and
 Fees, and vary the same from Time to Time,
 as they shall see Occasion; and shall cause the
 same to be hung up in some conspicuous Place
 of the Gaol and Court. And no Gaoler shall
 directly, or indirectly, take a greater Sum than
 shall be so allowed, under Penalty of 50*l*. — And
 if any Creditor, for a Sum not exceeding 10*l*.
 shall insist on detaining his Debtor in Prison, he
 shall pay him 2*s*. 4*d*. every Monday."

By the 10th G. III. c. 74. "General Peni-
 tentiary Houses shall be built according to the
 Plan and Directions therein enacted. To such
 Houses shall be sent Persons usually transported,
 or who, having been capitally convicted, have
 received his Majesty's Mercy: — They are
 there to be kept to Labour, of the hardest and
 most servile Kind, for eight hours in the Day,
 during the Months of November, December, and
 January; nine Hours in February and October;
 and

and the House the rest of the Year:—They shall be fed with Bread and coarse Meat, and Water or small Beer:—They shall be clothed with a coarse and uniform Apparel, with certain obvious Marks affixed to the same, to facilitate the Wearer, and facilitate Discovery in Case of Escape:—At the End of the Term of Servitude, every Offender shall be furnished with decent Cloathing, and Money for present Subsistence; and in Case he shall produce a Certificate of faithful Service for a Year, he shall be entitled to a further Sum. Each Cell shall be furnished with an Iron Bedstead, a Mattress, Hempen Sheets, and Coverlid. Yards shall be provided for Air; Surgeons and Apothecary to visit the Sick in Hospitals provided for their reception; and Powers are given to shorten the Term of Punishment, on good Behaviour; and to inflict additional Constraint on the Refractory:—And it is further enacted, that until such general Penitentiary-Houses shall be erected, it shall be lawful for the Court, where such Offenders shall be convicted, to order and adjudge them to be imprisoned and kept to hard Labour, for their several Terms, in the Houses of Correction, or other proper Places within each respective County; which Houses of Correction, &c. shall, during such time, be deemed Penitentiary-Houses to all Intents and Purposes, within the Meaning of this Act, except with regard to the Appointment of Officers, and internal Regulations

tions directed by this Act. And the Justices of the Peace for every County, at their Quarter Sessions, to be holden next after the Feast of St. THOMAS, in the Year 1779, are hereby required to give Directions for such temporary Reception, safe Custody, Employment, and due Regulation of such Offenders; the Expences of which to be paid by the Treasurer of the County."

By the 22d G. III. c. 64. "The Justices of the Peace, in every County, at their respective Quarter-Sessions next after passing this Act, shall, and they are hereby required, to nominate and appoint a Justice, or Justices, in each District, to inspect the several Houses of Correction within their respective jurisdictions; and on the Report, they are further required to obtain Plans and Estimates of such new Buildings, as shall make them answer the Purposes of this Act; and in adjusting such Plans, they are required to provide separate Apartments for Persons committed for Felony, and convicted of Theft, and other Prisoners; separate Apartments for Women, and proper Rooms, and Accommodations for Labour."

III. HAVING considered the IMPLIED SENSE and POSITIVE INJUNCTIONS of the Law, it will not be difficult to conclude what Prisons SHOULD BE in Effect, to answer the purposes of their Institution.

First,

First. A Prison must be of **SAFE CUSTODY**;—or, it is absurd to insist on a Sheriff's Responsibility. But this Safety should (as before observed) arise from the Nature of its Construction, the Regulations of its Police, and the Attention of its Officers, and not by unconstitutional Means, to supply their Defects.

— **After** their Security, **the HEALTH of Prisoners** is most essential to the Well-being of Society at large. **Gaol-Disease** is found to arise from the corrupted Air of crowded Wards, and rapid Cells; and from Filthiness of Person and Apartments. The latter is provided against by the Act, 23 G. III. before mentioned. But Success must depend more on Regulation, than Construction; and most of all, on the Merits of the Gaoler, notwithstanding his Attention is so strongly enforced under the said Act;—the noisome Effects of crowded Wards, of rapid Cells or Dormitories, come entirely within the Power of Redress, by the Manner of Construction.

SEPERATION, both by Day and Night, is the Principle of all Improvement: To a certain Degree, it is an Object of prime Necessity, to constitute a legal Prison; and there is no possible Degree of Separation, that will not bring with it additional Perfection:—It favours every Species of Reform;—it promotes the Pur-

poses

poses of the Law in allotting to each Offence its distinct Degree of Confinement and Punishment: — It prevents criminal Intercourse betwixt the Sexes, and the Instruction that the young Offender receives from the Profligate: — It alone ensures Health to all: — It favours Retreat to those, whom a conscious Innocence inclines to Privacy under their Misfortunes: — And, if carried to Solitude, is the most sovereign Corrector of a hardened Heart: — And lastly, it is the legal Means of bringing them under Authority: — It is by Cabal and Participation of Design, by Confidence in Murders, that desperate Deeds are undertaken. — By Separation, in their worst Designs they are within the Power of their Keepers.

THE Separations that are indispensable to any Idea of Order and Regulation, are, 1st, of SEX, through every Species of Offenders; — 2d, of DEBTORS, from every other Class of Prisoners; — 3d, of ACCUSED and CONVICTED; — and 4th, of NOTORIOUS and PROFLIGATE, from the less daring and atrocious. —

THIS last Distinction is properly that of Goal from Bridewell Prisoners. — BRIDEWELLS also should be Places of Safety without Irons; — they should be Houses of Industry and Regimen without Filth or Famine. — They should certainly contain Courts for Air, and Rooms adapted

adapted to Labour for either Sex;—and above all, they should be so situated, that the attending Commitments may not be burthenome to Officers of Justice, or Prosecutors.

In the Construction of every Prison, Attention should be paid to the Means of Industry;—to most Descriptions of Prisoners, Work should be enjoined—to all permitted;—the Policy that prevents Debtors working in a Prison, least their Tools should furnish Means of Escape, partakes of that narrow System, which pervades the Whole;—Habits of Industry once lost are not easily regained;—and, if Employment would beguile the Hours, and its Profits ease the Sufferings, of Captivity, I see no other Motive for preventing it, but that which actuated the Count de LAUZUN's Keeper, when he killed his Spider, viz. *The Wantonness of Tyranny.*

• THE Count de LAUZUN passed the long Interval from 1673 to 1681 in the Prison at *Pignerol*.—At a Distance from the Voice of Friend or Relation, without any Sound, except his own Sighs; without any Light, except the Glimmering thro' the Ruins of the Roof; without Books, Means of Occupation, or Possibility of Exercise; a Prey to Hope deferred, corroding Languor, and uninterrupted Horror; he, at last, as the only Method of avoiding Insanity, had recourse to the Means of taming a Spider. The Spider received his Flies every Morning with Gratitude,

carried

As Guardians of public Justice and public Welfare, our Views of Reform must not stop here.—It is only by strict REGULATION and POLICE, that the best constructed Prisons will be healthful, and produce the Ends proposed : —As no Man is a voluntary Inhabitant of a Prison ; and as Fees are no Part of the Sentence of the Law : Fees of all Kinds, either from Debtors or Accused of Crimes, are absurd in their Institution, and oppressive in their Practice.—By the abovementioned A^ct 14 G. III. acquitted Prisoners are exonerated from Gaoler's Fees,—yet there still remains much to be reformed, and much (even under that A^ct) to be enforced.

BREAD, WATER, and AIR, as the Means of healthful Existence, should be denied to no Prisoner ; and every Regulation, that refuses a due Allowance to the Purposes of Life, is unjustifiable : —How far they should be allowed to procure for themselves Indulgences that exceed

carried on his Webb through the Day, and engaged the whole Attention of his Benefactor, until the Jailer, conversant in Scenes of Wretchedness, and consequently steel-ed against every tender Sensation, accidentally discovered this Amusement of his Prisoner, and in the Wantonness of Tyranny, destroyed the Subject of it. Mons. de Lauzun afterwards declared, that he conceived his Agony, on this Occasion, to have been more painful than that of a fond Mother on the Loss of a darling Son.—PENAL LAW, these

those Necessaries, when within their Reach, either by Means of their own Labour, or the Attention of their Friends, requires some Consideration, and, most certainly, a very distinct Arrangement,

To all CONVICTED Prisoners, where Abstinence is probably not the least useful Part of their Sentence, no Indulgences should be permitted, but such as (under the Police of the Prison) are Rewards for good Behaviour.

DEBTORS, and the UNCONVICTED, should, doubtless, be allowed to employ the Gratuity of Friends, or the Wages of their own Industry, to make Life more comfortable; but under such Restrictions, as the good Government of the Prison renders indispensable.

TOTAL Abstinence from strong Liquors would probably be a most mortifying Self-Denial to many Prisoners; but it cannot fail to be beneficial to ALL, and most particularly to those, whose Excesses have not been less injurious to their Health, than to their Morals. Convinced of the Utility of such total Abstinence, I would make no Scruple of submitting to its Laws the most innocent Inhabitant of a Prison.

—Rules of Regulation should be simple and positive, or they will be evaded. Where an Excess is to be dreaded, total Injunction must be laid: In this Instance, therefore, I presume

it necessary that nothing should be left to the Discretion of the Keeper.

It will easily be granted, that Drunkenness, Riot, Swearing, and Profaneness, should not be permitted within the Walls of a Prison; and, that admitting a Prisoner to hourly Communication with his Associates in Villainy, is not a Means to ensure his safe Custody, or to encourage his repentance:—A LICENCED ALLEY-HOUSE then, within such Walls, is not so necessary a Part of a Prison Establishment, as to be made a Means of its Finance.

A GAOLER'S SALARY should be a liberal Independency; he should draw no Emolument from Misery, or from Means that disturb the Regularity of his Household.—He should farm no Part of the County Allowance, nor derive any pecuniary Advantage from the Prisoner, who chuses to exist on it;—Extra-Comforts he should be allowed to dispense; the Prices of these should be precisely fixed by the Justices, and frequently renewed, as Circumstances vary, (and as the Law directs.)

ATTENTION to religious Duties can by no Means be an indifferent Part of Regulation.—The Terrors of a future World are essential to the Reformation of Men, who have learnt to brave the Powers of this:—The Law has expressly

precisely declared its Attention to this Object, by the liberal Appointment of a Chaplain: But the most arduous Endeavours of the most zealous Christian, will be in vain, if his Views are not seconded both by Construction of the Prison and the Regulation of its Police.

PARTICULAR Attentions to Duty should be encouraged by small Rewards, within the Power of the Chaplain.

IV. If the Propriety of this Idea of a Prison be admitted, what can we say to the Reverse of the Picture, the Description of WHAT PRISONS ACTUALLY ARE!—Their *general* State is within the Reach of every Man's Knowledge, by perusing Mr. HOWARD's Publication.—— What he says of the County of *Glocester*, being probably a more exact Statement than can otherwise be given, will be best transcribed as Grounds for Conclusion.

“ County Gaol Gloucester Castle.

Gaoler, Salary, none.

Fees, Debtors, £. 1 0 10

Felons at Affize - 0 17 8

at Quarter Sessions 0 13 4

Licence, Beer.

D 3

Pri-

Prisoners, Allowance, Debtors and Fines none,
Felons, each a six-penny
 loaf in two days.

Garnish, £. 0. 1. 6

Surgeon, none; but on applying to a Justice.

“ THE Castle is also one of the County Bridewells: Yet only one Court for all Prisoners; and one small Day Room, 12 Feet by 11, for Men and Women Felons. The free Ward for Debtors is 19 Feet by 11, which, having no Window, Part of the Plaster-Wall is broken down for Light and Air. The Night-Room (the Main) for Men Felons, though up many Stone Steps, is close and dark; and the Floor is so ruinous, that it cannot be washed. Adjoining to the Main, there are other Night-Rooms for Fines, &c. These have also their separate Day-Room. The whole Prison is much out of Repair. The upper Rooms were the Bridewell, but now they are not used. Many Prisoners died here in 1773, and I generally saw some sick in this Gaol; eight died about *Christmas* 1778 of the Small-Pox. No Infirmary. Neither Clauses against Spirituous Liquors, nor the Act for preserving the Health of Prisoners, are hung up.

“ THERE is no proper Separation of the Women, or of the Bridewell Prisoners. The licentious Intercourse of the Sexes is shocking to
 Decency

Decency and Humanity. Five or six Children have lately been born in this Gaol. There is a Chapel, but all the Endeavours of the Chaplain to promote Reformation among the Prisoners must necessarily be defeated, by the Inattention of the Magistrates, and their Neglect of framing and enforcing good Regulations.

“On the Felons, in *September* and *December* 1776, thirteen were Transports: Most of them convicted at *Lent Assize* 1775. About twenty were Fines; who, not having the County Allowance, nor any Employment, were in *September* very pitiable Objects indeed; half naked, and almost famished. But in *December* their Appearance was much altered. Mr. RAIKES and other Gentlemen took pity on them, and generously contributed toward the Feeding and Cloathing them. Eleven of the twenty-four in 1779, were Fines without any Employment or Allowance.

Other County Bridewells.

“**LAWFORD'S GATE, Bristol**, built 1716, has four Rooms, 18 Feet by 16: In two of them are Beds for those who pay. There is a small dark Room in which Felons sleep. No Chimnies. Court 22 Feet by 18; with a Pump. It is not secure; and Prisoners are always confined in their Rooms. It may be enlarged from the

Keeper's Garden; and should be made secure, that Prisoners may use it, and have Access to the Pump. The Keeper readily agreed with me in that Opinion. He is a Sheriff's Officer: Salary, 10l. Fees, 6s. 8d. No Table. Straw, 10s. a Quarter: Allowance, if a Prisoner be very poor, 2d. a Day. No Employment. Clauses against Spirituous Liquors not hung up. By a Register kept in the Prison, it appears that, in eight Years and a Half to September 1776, there were committed to it 572 Prisoners.

“**BERKELEY.** Quite out of Repair. Only one Room for Men and Women, 18 Feet by 15: No Chimney: Court not secure: No Straw. The sensible old Keeper lamented the bad Effects of close Confinement in Idleness, upon the Health of even young strong Prisoners. Many such, he said, he had known quite incapable of working for some Weeks after their Discharge. He told me, that some Years ago his Prisoners used to grind Malt for a Penny a Bushel; and the Justices would not licence any Victualler, whose Malt was not ground here; but that of late Years they have done no Work at all. No Allowance. Keeper, **FRANCIS NORMAN**; his Salary, 20l. but he pays out of it 6l. to the Poor of the Parish for Ground-Rent: Fees 4s. 4d. no Table.

" CIRENCESTER. The Ground Floor is the Keeper's Shop for Garden Seeds, and his Kitchen, &c. On the first Story is a Room about 16 by 11, for Men; one Corner of it is parted off for a Bed-Room, called the *Cub*, eight Feet by five. On the second Story is a larger Room for Women. The whole out of Repair; and the Court not secure enough to let the Prisoners have the Use of it. Felons are occasionally allowed Twopence a Day; nothing to any others. No Employment. Keeper's Salary, 13l. he pays Rent, 12l.

" WINCHCOMB. In this Bridewell Prisoners were formerly kept all together in the Cellar. Now they are in the Garrets; Men in one, Women in another, each about 14 Feet square. Roof and Floors meet: Eight Feet high to the Ridge in the Middle. A close-glazed Window in each: No Chimney. Prisoners always confined to their Rooms: Court not secure. The County have never expended any Thing upon the House for many Years; and the whole is quite out of Repair. It was the Freehold of the Keeper, who was upwards of Four-score: His Salary per Receipts 12l. 10s, in fact, 12l. Fees, 13s. 4d.: No Table. Licence for Beer, Clause against Spirituous Liquors not hung up. Allowance, if charged with Felony, Three-penny-worth of Bread a Day. No Straw. The present Keeper said, that, " he should be ob-

obliged to put Irons on all the Prisoners to secure them.

HENCE it is observable, that in the County Gaol the Keeper has no permanent Emolument. His Profits arise from selling Ale within the Prison;—from Fees for Felons (now allowed by the County*) and of Debtors paid by themselves; with what other Advantages he can derive from a Prisoner, who has Property.

SINCE the Time of the above Description, a very considerable Sum has been expended on the Castle: the Whole has been roofed;—the Main has been paved with Stone, and Stages erected for the Straw on which the Felons sleep;—the Room for Fines has been greatly improved;—and the Keeper's Apartments, rendered more elegant;—Mr. HOWARD's Observations, therefore, on the Floor of the Main, and general Repair of the Prison are obviated;—but as no new Divisions have taken Place, no Ward increased in Size, the same destructive Principle of Confinement remains unreformed.

* The Claims of the Clerk of the Assize, and of the Clerk of the Peace on Persons discharged at Quarter Sessions, still continue to be made. It seems doubtful how far such Claims are consistent with the Words of the Act "Acquitted Prisoners shall be immediately set at large in open Court."

THE

THE whole Herd of Prisoners, those committed for Trial and those convicted;—the young and the old Offender, are indiscriminately driven at Night into one dark Pen.—A Want of Security, which is said to exist in this general Receptacle, has produced a Contrivance, which, from its Ingenuity, is worthy Observation, as it is little inferior in Merit to that of the *Ély* Gaoler before mentioned:—A ponderous Chain crosses this *Place of Rest*, and, passing the main Link of each Man's Fetter, is made fast at each End, and the whole are threaded together:—Thus, with an additional Burthen on their daily Misery, are they left to pass the Hours, destined by Nature to Ease and Refreshment*:—Enlarged from these Horrors of the Night, this whole Class of Prisoners are crowded into one Room, 11 Feet by 10; so that there being now 65 Prisoners, each Man has a Space of less than two square Feet to stand in.—In Winter, the Inclemency of the Weather obliges them to pass the greatest part of their Day in this Situation; which, according to the Opinion of the medical Gentlemen consulted by the late Grand Jury, (and indeed, according to general Opinion, on the Cause

* THERE are at present forty Prisoners so threaded together every Night.†

† Since writing the above, 14 of these Prisoners have been discharged by Proclamation as innocent Men.

of

of putrid Disease) was an obvious Reason for those Distempers, that raged through the last Winter; and will continue to be a Reason, when the Prisoners cannot get into the Air.

THE distinct Rooms, allotted to Felons and Debtors, can hardly be called Separation, as it takes Place only during Confinement to their Apartments:—When they take the Air (which, under the present Circumstances of the Prison, is very properly nearly the whole Day) there is no longer any Separation;—the Debtor and Felon, Men and Women, Fine and Convict, form one *amiable* Society; the Seminary of wholesome Instruction and general Reformation:—Here the most ignorant may be initiated, and the Novice ascend to the higher Mysteries of Infamy and Vice.—Least the Inhabitants of the Prison should want Professors in their Arts, or, least Abstinence from strong Liquor should deject the Spirits into Submission and Repentance, there is a licenced Receptacle for those Associates, whose greater Intelligence has kept them out of the Hands of Justice. Here they may plan Evasions of the Law, and lay new Schemes for new Offences.

DEBTORS are left to perish through Want of that Relief afforded to the most hardened Convict. Were it not for the casual Interference of humane Individuals, a Debtor's Life, within the

the Custody of our Prison, can last no longer than human Nature can exist without Food.—For many Years, but one Debtor has obtained his Groats of his Creditor.

THOSE Fines also, who are committed from Inability to pay small Penalties, and are consequently unable to purchase Sustenance, fall under this abominable Sentence *—because their Offence is *less* than Felony—their suffering is *more* severe than that of Felons.

THE Clauses against Spirituous Liquors, and the Act for preserving the Health of Prisoners (in Defiance of Statute) are not hung up in the Prison.—

NO Proceedings have ever been had on the Statute of 32 G. II. respecting the Table of Fees, &c.—No Order for Regulations appears, and that for Fees is dated thirty Years before the Act in Question.

CONTRARY to the Statute 14 G. III. There are no Baths in the Prison,—no Hospitals properly adapted, and no regular Medical Establishment.—By Consequence of these Neglects, Disease, once introduced, is perpetuated till we

* THE Sufferings of the Fines, at this Time is beyond my Description,—and, but for the Charity of Individuals, distributed by Mr. RAIKE's Direction, many would have suffered Death by Hunger.

grow

grow so accustomed to its fatal Effects, that the most cruel Circumstances make no Impression on us *.

PRISONERS are still allowed to strip each other under the Plea of Garnish.

THE State of our Bridewells is certainly not better than when Mr. HOWARD reported them. — In three, at least, of the five there is a total Absence, of every Necessary to Security, to Industry, or to Existence. — How useless they are become, the acting Magistrates best know.

I CANNOT conclude this Part of my Subject without calling the Attention of Magistrates to

* AT the Spring Assizes, Bills were found against eleven Prisoners, who, suffering at that Time under Gaol Disease, were deprived of the Benefit of the sacred Privilege of their *Habeas Corpus*. — Of those eleven Persons thus extrajudicially sentenced to a further six Months Captivity (under Circumstances above described) three died without Trial, four on Trial were found innocent, and four only were convicted. — There are now several Prisoners who are on the Point of Death without Trial. — Ten have died of the Small Pox within the last five Months, besides the Numbers unknown to whom it has been doubtless communicated by Prisoners returning to their Families. So fatal, indeed, is this Disease understood to be, (when under Prison Attention) that, it is a known Fact, Prosecutors have neglected the Proceedings for a Trial, considering their Business as completed in a summary Way, on hearing that their Culprit was sick in Prison.

the

the serious ill Consequences of their neglecting to rebuild the Houses of Correction, as directed by the A^ct 22 G. III.

THAT A^ct evidently owed its Existence to a Necessity arising from the Powers of the A^ct 19 G. III. whereby "Convicts liable to Transportation, or reprieved from Death, shall be sentenced to Imprisonment in Penitentiary Houses, and until general Penitentiary Houses are erected, their Punishment is to take Place in the Houses of Correction within the County, which are therein required to be made proper for SOLITUDE and LABOUR."

THE Judges immediately proceeded to sentence Convicts as directed, whilst the Justices, on their Part, neglected to provide the "proper Places" to receive them; and of course the ordinary Wards of County Prisons became so dangerously crouded, that it was found necessary immediately to pass the A^ct of 22 G. III. to re-build Bridewells on a Principle answerable to the Purposes of the former A^ct;

WITH us the Whole of these required Preparations remain neglected; yet the Judges must continue to sentence to Imprisonment, &c. till by the additional Supply of another A^ct we shall have such a standing Body of desperate Felons in a State of Idleness and Confederation,
that

that under the present Disadvantages of Construction, we shall need an Army of Keepers to ensure their Safety; or should we by dint of Dungeons and Irons succeed in preventing Escape,—the utmost Care will be ineffectual to prevent Gaol Disease.

—Our Calendar presents a List of seventeen remaining as Convicts for Felony, and reprieved from Death.—Our present *Gaol Delivery* will not supply a less Number in Addition.—A Collection sufficiently formidable to alarm every considerate Man,

VI. IF I have been so fortunate as to succeed in Proof, that our Prisons are not what they ought to be, I may be excused if I add a few Words in Encouragement of Reform.

WHEN we observe the rapid Increase of Crimes in the very Teeth of the severest Dispensations of Justice;—when we reflect that, under the purest System of Criminal Jurisdiction, that ever did Honor to a Legislature, we have Manners that would disgrace a savage Banditti;—we cannot but conclude, that there is a Defect in the Administration:—What that Defect is, it is really become the Interest of every Man to consider.

I CANNOT but think it an ill-founded though common Reflection on the Age, to impute the Increase of Crimes in the Inferior to mere Effect of Example from the superior Orders of Society:——If there be a Character peculiar to the modern Vices of the liberal Class, it is, that they are refined beyond the Reach of Vulgar Imitation;—Yet, I fear, it must be admitted, that the extensive Indulgencies which are grown into our moral System are not the less fatal to the Spirit of Order and good Government:——Every Circumstance that tends to enlarge the Scale of moral Liberty in the Minds of those who govern, must weaken their Regard to preventive Justice;——Accustomed to compound with the more rigid Duties in ourselves and those above us, we cannot but dispense with rigid Morals in those below; and if it be by Correction of the smaller Crimes that the greater are prevented, when we dispense with the smaller, we become responsible for the greater that ensue.

It is a mistaken Lenity that inclines the Magistrate to consider great Criminals as the only Objects of Attention;——if the Purpose of Justice be Revenge, then indeed they certainly are so;—but, if it be the Reformation of Transgressors, we must begin with early Transgression,——Few men have been hanged for a Felony, that might not have been saved to the Commu-

E

nity

nity by Correction of a former Misdemeanor ;
 —there is in every Man an innate Respect for
 Law, which he never violates by the first Of-
 fence, without a Compunction that leaves his
 Mind open to Correction ;—encouraged by
 Impunity,—he proceeds to Repetitions, which
 gradually prepare his Mind for the Commission
 of enormous Crimes.

To all such preventive Purposes of Police,
 Bridewells must be the essential Aids :—I do not
 think it an enthusiastic Speculation to advance,
 that, abandoned as we are, a thorough Refor-
 mation of Manners is within Reach of their
 Effect, if perfectly regulated, and seconded by
 an active Magistracy.

BUT whilst there exist no Means of inflicting
 a less severe Confinement,—Humanity will not
 hesitate betwixt Impunity and Excess of Punish-
 ment ; and every Offence that is not deserving
 of a Dungeon, must go unpunished. I address
 myself to many Justices, and to them I appeal
 for the Truth of this Consequence.

IT is not sufficient that the Manners of a Pri-
 son should be barely not corrupting ;—The
 Public should have Confidence in its full Power
 of Reformation. Whilst a Prison contaminates
 a Man in the eye of Society, and destroys all
 future Confidence in his Honesty.—a Com-
 mitment

mitment is, in Effect, a Condemnation to the Punishment of those Crimes, which his future Necessities may induce him to perpetrate.

IT is the inevitable Imperfection of a Government by "PRESCRIBED LAW,"* that under the best possible Regulations there must remain a Defect in the Appropriation of Punishments to Crimes ;—There are so many possible Circumstances that may attend the Commission of every Offence, which may materially affect its Degree of Criminality, but which it is impossible for a Legislature to foresee and provide for, that much *must* be left to the executive Magistrate ;—what shall we say for that Neglect that has so aggravated this natural Imperfection of our Government, so narrowed the Possibility of Discrimination, that for all Offences, nay, even for Suspicion of Offence, or mere Misfortune, it may almost be said, there remains but *one* inevitable Doom ?

I SHOULD think I trespassed on your Indulgence beyond all Bounds of prudent Daring, if I dictated Reform to Men, who, with equal Humanity to feel the Miseries of Mankind, possess superior Abilities to relieve them ;—I must be understood as merely submitting to your Judgment, a Course of Reasoning on a Subject

* BLACKSTONE.

that your more active Situations in the Service of Community have probably denied you Time to consider.

REFORMATION from old Abuses is slow, because we have a dull Perception of what our Senses are accustomed to ;—that Tenderness of Heart, which inclines to Kindness and Compassion in other Instances, acts against the melancholy Inhabitant of a Dungeon.* It makes us dread the Scene of Woe, which (had we the Resolution to witness) we should not want the Mercy to relieve.

FROM the natural Indolence of the human Mind, we are more inclined to avoid thinking than acting ;—we content ourselves with first Impressions, and simplify our Ideas on Subjects the most complex in their Nature :—A Gaol, being the Place of Custody of the Disturbers of our Peace and Property, rarely attracts our Attention, as an Object of Pity and Benevolence ; gratified with the Thought, that it restrains the daring Murderer, we overlook the gloomy List it oppresses,—Victims of Misfortune, and false Accusation.

* Mr. Howard says, he found few Instances of Inspection of the Gaols by the Magistrates, on Account of the Danger attending it.—And that he found one Instance of an Apothecary, who stipulates in his Bargain, not to be obliged to visit the Cells.

THE

THE humane BECCARIA thus remarks on the
 Submission of Mankind to cruel Dispensations:
 “ We may think it singular, (says he) that the
 “ Generality of Men should incline to a sangui-
 “ nary Spirit of Legislation ; but it arises from
 “ a Hope that exists in every human Mind, that
 “ all unfortunate Circumstances will be the
 “ Lot of others,—whilst the fortunate only are
 “ to be our Portion. Men, governed by the
 “ most obvious Conclusions, love cruel Laws,
 “ because the Fear of being injured is greater
 “ than the Intention of injuring ; though, as
 “ being themselves subject to them, it is for
 “ their Interest they should be moderate.”

But let no one thus reason, I am just,—I
 am above the Commission of a Crime,—a Prison
 is not for me, but for the Miscreant who, having
 opposed the Ordinance, has abandoned the Protection
 of the Laws ;—Leave him to his Doom of Misery ;
 —Let him rot in the Vapor of a Dungeon,—and drag
 his unweildy Chain at the Mercy of his Keeper.—I
 deny any such absolute Exemption :—From the
 capricious Uncertainty of human Events, it is
 much within the Bounds of Possibility, that the
 most innocent Man may become a temporary
 Victim to the suspicious Eye of Justice ;—the
 most affluent reduced within the Power of a re-
 morseless Creditor.—“ No Rank in Life, (says
 “ Sir M. FOSTER) no Uprightness of Heart, no

“ Prudence and Circumspection of Conduct,
 “ should tempt a Man to conclude that he may
 “ not at some Time or other be deeply interest-
 “ ed in these Researches.”

NOT to urge the Numbers of those, whom the Verdict of the Jury, on which you now sit, dismiss with Honor from unmerited Mansions of Horror.—If constitutional Freedom be Government by Law, “ equally commanding what is right, as prohibiting what is wrong ;” * he, who has not forfeited all, has his Claim to what remains :——Exemption from greater Punishment than the Law prescribes, is as much the *Right* of the Criminal under Sentence, as Exemption from all Punishment is the Right of the purely innocent.

If then it must be admitted that, under the present Abuses, the Purposes of the Law are frustrated, and the Rights of Humanity neglected ; the Extent of the Undertaking should not deter us from the Execution.—No Man doubts, that there are Objects of so great Import to Society, that the Sacrifice to obtain them must be overlooked : Surely that is one, which secures to us the peaceable Enjoyment of Life and Fortune, and gives to our Laws that Equity in Practice, which they boast in Theory.—But

* BLACKSTONE'S Definition of Municipal Law.

whatever the Purposes of good Order may claim from the Purse of the Public, it is the Duty of those who administer, to expend with Frugality; and with Frugality, the Limits are not alarming.

THE Counties of Suffex and Cornwall have set us the laudable Example of Humanity and sound Policy;—our Resources are not less,—and why should be our Philanthropy?

I CANNOT conclude without craving your favourable Indulgence of my weak Efforts, in a Cause that impresses itself strongly on my Mind as a moral Duty.—The Imperfections of every Kind you will pardon, with the Candor I have ever experienced in this County.—The Request, that made me presume to address you, came so lately to me, that I have not had Time to render this small Publication so correct, as the Nature of the Subject requires, or as my Regard for the respectable Body, to whom it is addressed, would have induced me to have done.

I have the Honour to be,

Your obedient and faithful Servant,

GEORGE ONESIPHORUS PAUL.

GLOCESTER, August 7, 1783.

A P.

A P P E N D I X.

AUGUST 10.

THE Subject of the above ADDRESS having been taken into Consideration by the Grand Jury——The following Resolutions were agreed to as their unanimous Sense, to be submitted as such to a County Meeting, which they request the High Sheriff to appoint on *Monday* the 6th of *October* next, at *Eleven o'Clock* in the Forenoon, at the Grand Jury Chamber.

A Copy of the Resolutions.

GLOCESTER, GRAND-JURY ROOM, *August 9.*

THE unanimous Resolutions of the Gentlemen of the Grand Jury, at the Summer Assizes, 1783:

I. **THAT** it appears the Gaols and Bridewells of this County are inadequate to the Purposes of Correction, Humanity, and Industry; and that a Reform is absolutely necessary, upon the general Principle of Separation.

II. **THAT** it is highly necessary that County Bridewells should be entirely separate from County Gaols.

III.

III. THAT it be recommended to the Magistrates, at the next Quarter Sessions, to take into their Consideration the Execution of the Powers of the A& 22 Geo. III. chap. 44, relative to Bridewells; and also the most proper Places for erecting them.

IV. THAT we request the High-Sheriff to call a Meeting of the Nobility, Gentry, and Clergy of this County, to take these Resolutions into their Consideration; and to adopt the most effectual Means of putting the same into Execution.

V. THAT these Resolutions, signed by the Foreman, be printed in the Gloucester Papers.

G. BERKELEY, Foreman.

N. B. *As it was the Wish of the Grand Jury, that this small Publication should be generally distributed amongst the Magistrates of the County, the Printer had Orders for that Purpose; and if any Gentleman in the Commission of the Peace has been overlooked in the Distribution, it is hoped it will be imputed to Accident.*

11. That it be recommended to the Magistrate at the next Quarter Session, to take into their Consideration the Execution of the Powers of the Act 22 Geo. III. Chap. 44. relative to Escheat, and also the most proper Place for vesting them.

12. That we report the High Sheriff to call a Meeting of the Justices, Clergy, and Burgesses of this County, to take into Consideration their Consideration, and to report the most effectual Means of putting the same into Execution.

13. That their Resolutions, signed by the Foreman, be printed in the Quarterly Reports.

G. ARKLEY, Foreman.

THE following is a list of the names of the Justices, Clergy, and Burgesses of this County, who attended the Meeting held on the 10th of April 1794, at the Court House, in the City of London, for the purpose of considering the most effectual Means of putting the same into Execution.

Mr. D. A. it was the Pleasure of the Grand Jury that the said Petition should be granted, and that the said Justices, Clergy, and Burgesses should be summoned to attend the Meeting on the 10th of April 1794, at the Court House, in the City of London, for the purpose of considering the most effectual Means of putting the same into Execution.

Mr. D. A. it was the Pleasure of the Grand Jury that the said Petition should be granted, and that the said Justices, Clergy, and Burgesses should be summoned to attend the Meeting on the 10th of April 1794, at the Court House, in the City of London, for the purpose of considering the most effectual Means of putting the same into Execution.

SECOND ADDRESS

ON THE SUBJECT OF A

REFORM OF PRISONS,

Delivered at the General Meeting of the Nobility, Gentry, and Clergy, of the County of GLOUCESTER, held on Monday the 6th of October, 1783.

BY SIR G. O. PAUL.

SINCE I had the Honour to lay before the County a State of the Prisons within it, and the collective Sense of the Laws in Being respecting them ; it has been intimated to me, by very respectable Authority, that I should (at this Meeting) bring forward such Propositions as would reduce my Ideas to a practical Form.

If I wanted Motives to promote a Work which I consider of such serious Importance, the respectable Attention paid to the Observations I have already submitted to the County, would

would be a Claim to my best Services in all future Proceedings :—I confess, it is not without great Diffidence that I venture to reduce into the Form of specific Proposals, those identical Speculations which I so confidently addressed to you.—Errors in Opinion affect only the Reputation of the Man who advances them; but in the Part now before me, every Defect will operate on the general Interests of Society.

As I understand that the System recommended in my late Address has been considered as an impracticable Theory, we cannot too soon examine the Grounds for such a Reflection; for if it should really arise from the Nature of the Attempt, it ought to be decisive on the Business of this Day.

It would indeed be insulting your Understandings with a Chimera, should I presume to offer to your Attention a Plan of Reform depending solely for its Effect on Principle of Construction;—moral Effects can be produced only by moral Means;—and I readily acknowledge, that, in stating public Reformation as the Consequence of our Design,—I have presumed on a spirited Co-operation of all the Powers of Magistracy.

I WILL

I WILL not admit that there actually exists in the Magistrates of this County an Indolence that will prevent their constant Attention to the future Regulation of the Prisons, when built;—but I must take this Opportunity to suggest, that if Gentlemen are conscious that such may be the Event, it will be an Injustice to the Fund appropriated to the Undertaking, not to avow it at this early Moment.—From the mild Spirit of our Government, the Efficacy of Laws which regard internal Regulations must depend on an active Concurrence of the liberal Class of Men to whom the Execution of them is delegated;—nor is it an unreasonable Presumption in the Legislature, that those, who are the most interested in the Preservation of public Decorum, should be the most zealous to promote it:—where the End is universal Benefit, and even *individual* Interest is intimately blended with that of the Public;—where we are restoring a lost Effect to Laws in which we glory,—I cannot allow the Proposal to be visionary, which needs no other Support than the Performance of Duties constituted by the very Freedom of our Government.—By the Laws in being, “Magistrates resident near the different Houses of Correction, are required to inspect them, at the least, twice in the Year, and to report their State to the Quarter Sessions.” The Consequence of past Neglect is sufficiently obvious;

vious ; and should the Conduct be similar when the present Undertaking shall be accomplished, all our Expenditure will be ineffectual.

As I have Cause to think that a Term which I adopted, in reasoning on this Subject, has been understood in a much more comprehensive Sense than I intended, it is but Justice to my Argument to clear it from Misconception, and to fix the precise meaning in which I applied it.

If, from strongly urging the Doctrine of Humanity to Prisoners, it has been inferred that I am an Advocate for mistaken Lenity,—Gentlemen really give me Credit for a Species of Feeling which I do not possess ;—I am sensible that Lenity, in the Administration of promulgated Laws, proves but too frequently the Perversion of Justice.—Even Mercy, when too generally extended, may counteract its own intentions : —But *Humanity* (as far as it respects the *Mode* of human Actions) is the universal Claim of all Mankind :—It is the Right of every Being, in every possible Situation, in which either his Crimes or his Misfortunes may have placed him.—Without obstructing a single Purpose of the Law, it adds a respectful solemnity to its Forms ; and presents Justice to the People, not as the Effect of hasty and capricious Re-
sent-

sentment, but as the Result of cool and manly Deliberation.

EVERY Violator of the Law is, in his Degree, obnoxious to civil Society ; and the most trivial Offender should suffer a Punishment proportioned to the Nature of his Crime.—But it is the Object of constitutional Government to guard against that Sense of personal Injury, which, in a State of Nature, makes every Man the Judge and the Avenger of his own Cause.—It is the Essence of legal Institution, that however strong be the Presumption, however positive the Demonstration of Guilt to the Mind of the Prosecutor, no Punishment can be just till the Crime be established by the Forms prescribed.—On this Ground, therefore, I have contended, and shall ever contend, for such a Degree of Lenity to Prisoners before Trial, as may be consistent with their safe Custody.

HAVING thus far trespassed on your Indulgence to explain what I have already advanced, I presume it needless to enter into more general Argument on the Subject.—The bare Recital of those Facts that have appeared in the further Progress of my Enquiry, must be sufficient to establish my Conclusion, and cannot but engage your Attention to the most speedy and effectual Interference.

AL-

ALTHOUGH I have no Reason to think that our Gaoler has neglected the Means within his Power to preserve Health in his Prison, a Fever continues to rage with fatal Effects.—During the few Weeks which have elapsed since the last Assizes, five Prisoners have died of the Gaol Disease—Of these, one *only* was a convicted Felon; three were *Debtors*, and one a Prisoner on an Exchequer Process, for a Neglect in not discharging his Recognizance†.—Besides these, a Woman, who from regard to her sick Husband (a Debtor) came into the Gaol to nurse him; and a Son, who from a similar Motive attended his Father (also a

† The Case of this unfortunate Man is too severe to pass unnoticed in our Enquiries.

Joseph Beard, (a Cripple) and the Wife of John Witts, of the Parish of Stroud, having been present at a trifling Affray, were, with many others, indicted for a Riot. On their Appearance for Trial the Matter was accommodated; but they (ignorant of the Consequences) left the Court without discharging their Recognizance. In due Course of Proceedings, their Names were reported as escheated to the Exchequer, a Writ in Consequence issued, and Beard, and Witts, the Husband (as answerable for the Wife) were committed to Prison.—Beard immediately caught the Small Pox, and on his Recovery was seized with Gaol Fever, and, after lingering several Weeks, died;—Witts, at the Point of Death with the same Disorder, was carried home to his Family, and now lies delirious, without hope of Recovery.

Debtor

Debtor) both caught the Disease, and fell Sacrifices to their Duty and Affection.

CONVINCED, that these miserable Effects could not be confined within the Walls of the Prison, I made Enquiry into the more remote Consequences; and I found that within a Space of four Miles round my own House, three Debtors, one Poacher, and a Fine, had actually died within the preceding ten Days, of a Fever brought from the Prison: And that of eight other Persons infected by them, one is since dead, and seven lie dangerously ill *.—From so many fatal Instances, in so small a District, what a melancholy Conclusion must be drawn on the general Effect!

• Thomas Evans, of the Parish of Hampton, (committed for Poaching) returned Home with a Gaol Fever, and is since dead.—Elizabeth Long, in whose House he lived, caught the Fever and died:—Long, the Husband, and two Children, are now ill of the same Disease.—In the same Parish, Samuel Daniels, returned from Imprisonment for Debt, has the Gaol Fever upon him, and has communicated it to his three Children, who all lie ill at this Time.

Near the Parish of Stroud, William Farmeloe and William Chapman, Debtors, returned from Prison, are since dead of the Gaol Fever;—and one Smith, of the neighbouring Parish, brought home the Small Pox, is dead, and has infected his whole Family. The further Consequences remain to be known.

WE have at this Time thirty-eight capital and other atrocious Convicts : In the same Class (and of course under their Tuition) are fifteen Prisoners for Poaching, Bastardy, and Fines,

FROM the Facts I have stated, the Necessity of a Reform appears an incontestible Consequence. With regard to the *Scale* on which it should be undertaken, (as I speak on the fullest Conviction) I shall, without Hesitation, say—*On the most extensive* ;—On a Plan that may effect a total Change of that System which has hitherto been suffered to exist.—New Prisons—New Regulations—and new Attention to their Operation.—Nothing less can establish a Police—prevent Pestilence—and produce an Amendment of Morals.

ON the Principles advanced in my former Address, the Advantages of a Prison will multiply in proportion to the Separation of Prisoners provided for.—Yet in this (as on most other Subjects) our Theory may go beyond Practicability.—Too many Separations may occasion Confusion to the Keeper, and surpass the Powers of an Architect properly to arrange.—much of this Difficulty may indeed be obviated with us—where, from the Necessity of rebuilding *many* Prisons, the principal Separations

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tions may be provided for by allotting to each a distinct Purpose.

THE first and most material Division that should engage our Attention is,—of *such Prisoners as must indispensibly be confined in the County Gaol, from such as, without the least Impediment to the Course of Justice, may be sent to Houses of Correction*;—Felons, and all others committed for Trial by Jury, are indisputably of the first Class, and should be kept near the Court of Assize;—Debtors must certainly remain in the Custody of the Sheriff's immediate Officer;—Many of the lesser Offenders also, in compliance with the present Letter of the Law, must “be committed to the Common Gaol;”——But, with regard to Criminals of various *other* Descriptions that now crowd the County Prison, it would be of Advantage to the Purpose of their Confinement, as well as of public Convenience, that they should be sent to Houses of Correction situate in the Vicinity of the Offence.

IN classing Offenders, I find it difficult to speak of those called *Fines*, in that collective Body in which they are now placed. Among the Prisoners of that Description within our Gaol, there exist almost as different Degrees of Guilt as are comprehended in our Statute Book; House-breakers,—Horse and Sheep-stealers,—Poachers,—Want of Sureties for Bastardy,—Exchequer Pro-

cells, &c. constitute the present heterogeneous Band;—Here it will surely be our Care, as it is our Duty, to discriminate.——Of the most infamous, the greater Number are Transports, and should immediately be removed, conformable to their Sentence; Others (according to the 19th Geo. III.) should be received into *National Penitentiary-Houses*:—But as the Execution of this Act, on its *general* Principle, appears precarious, I fear we must proceed to adopt that Part of it which requires “proper Places to be provided within the respective Counties.”

To Bridewells *only* should be sent all Persons liable to Imprisonment on summary Proceedings before a Magistrate.—Those also, who have incurred a Sentence of Imprisonment or Corporal Punishment, as an Alternative for not paying a Fine, are proper Objects for a House of Correction:——But as to such as are, strictly speaking, *Fines*, Men who have no otherwise incurred a Sentence of the Law, than as subjecting themselves to a Penalty; it cannot be consistent with any equitable Dispensation, that they should suffer more than *bare* Confinement.—Those, particularly, who are committed for want of Sureties, on Exchequer Process, and on forfeiture of Bail, are mere Debtors to the Prosecutor; and should be confined as such until they pay the Debt, or compound it;——I
make

make no Scruple, therefore, of associating such Men with the Debtors—where, in all probability, there will be the best Accommodation for acquiring, by their Industry, the Means of regaining their Liberty;—We should be particularly careful to shield from aggravated Sufferings, Persons only liable to Fine,—We should consider that their Imprisonment is a Consequence of their Poverty, not of their Offence;—A Consequence from which the Smiles of Fortune have exempted Persons in our own Sphere. Of this Description are most of the smaller Offences against the Revenue Laws: From the necessary Precision in their Execution, there is seldom much extenuation of Punishment;—Circumstances are frequently severe, and Effects so fatal, as to irritate the Feelings of the People against the Laws themselves;—Committed only in Consequence of a Failure of every Resource, they enter on a hopeless Term; and exempted from County Benevolence, they become inevitable Victims to Hunger and Disease.

In order properly to provide for these arrangements, I propose to you to build five new Bridewells, in the Lieu of those on County Establishment, but which are not of the least Benefit to the Public: And that their Situation be such as may most equally accommodate all Parts of the County, taking into Consideration

tion the Degree of Population as well as the Extent of District.—I further propose, that one of these Bridewells should be built in or near the City of Gloucester, and be called, by Distinction, the *Penitentiary House*; and that in it Preparation be made for such Prisoners as at the Assizes or Sessions may be sentenced by Law to Imprisonment and Labor, or who, in Lieu of Transportation, or on being pardoned from Death, are ordered (by the 19th Geo. III.) “to Imprisonment and Labor in proper Places within the County.”——To this Prison the more atrocious Convicts “should be removed immediately on Sentence; and be from that Time secluded from every Intercourse with Society, as far as a just Attention to their Health will admit.—Their Food should be wholesome, and sufficient to support Life under such Labor as shall be enjoined them: They should be clothed in such Uniform as may humiliate the Wearer, and facilitate Discovery in Case of Escape:——And such other Regulations should be adopted as are directed by the Act, and are applicable to the present Purpose*.

I would further recommend that all the Bridewells be built on a Principle of Separation of Classes, and also of individual Separation, and otherwise (as required by the Act of the 22d

* Vide Act 19 Geo. III. c. 74.

Geo. III.) submitting it to your Judgment, whether, after the ample Provision made for Convicts and Felons in the other Prisons, it will be necessary (as therein directed) to provide for them in the common Bridewells further than for such temporary Confinement as may be convenient before Commitment to the County Gaol.—The Separations, which appear to me indispensable, are, First, of Men from Women. —Secondly, of idle Apprentices and others committed for Neglect of Contract, from the profligate or suspected Vagrant.—And, Thirdly, of those sentenced to Imprisonment *with* Labor, from those *without*.

WITH Respect to the County Gaol, there must also be—a Separation of Men from Women; of Debtors (and those Fines above proposed to be classed with them) from all other Prisoners; and an Apartment for King's Evidence.—As in the Construction of this Prison the great Object is safe Custody, too much Attention cannot be paid to bring the Efforts of the Prisoners within the Power of the least possible Number of Keepers.—Every Felon must have his Night Cell to himself; and it may be thought eligible to subdivide the Courts with such a Fence as may prevent the associating in large Bodies, but not impede a free Circulation of Air.—A Chapel—Baths and Hospital, must be provided (as directed by the 14th

Geo. III. &c.)—In each Division also, there must be Apartments for Labor;—For although no Class now remaining in the Gaol Division, is compellable by Law to labor, yet, as Oblivety Allowance may be made to depend on their Consent, they may work for their Subsistence, if Employment can be procured for them.

In all these Prisons, some of the solitary Apartments should be adapted to a greater Degree of Constraint, for the temporary Punishment of the Refractory; attended with such Circumstances as may be thought necessary to preserve the Police of the Prison.

As to the Gloucester Bridewell and Prison for Convicts being made a Building totally distinct from the Gaol, this must depend on the Portion of Ground allotted for the Purpose.—I have separated them, on the Presumption that the Spot near the present Gaol may not be sufficient for both.—Much may be saved in Point of Expence by their being contiguous, without any essential Inconvenience; the Chapel, Hospital, and some other Parts, may be made to answer in common to both.

I presume it is by no Means necessary to enter, at this Time, into more minute Particulars; what I have said is sufficient to explain the

the Extent of my Proposal.—The Regulations necessary to give Effect to the Contraction, must be the Subject of future Discussion, and may be adopted, as approved, in the Course of the Proceeding.

After having offered so extensive a Plan to your Consideration, it must be expected I should say something on the Means for carrying it into Execution.

I TRUST I shall be forgiven for not having prepared such an Estimate as would be completely satisfactory.—It cannot be the Intention of this Meeting to enter into the Details of Calculation.—The Information I have obtained is sufficient to convince me, that should the most liberal Idea be adopted, and the Sum necessary for the Execution be assessed during the Progress of the Work, it would not be an unexperienced, and, of course, not an intolerable Burthen.

THE jealous Suspensions of Parish Officers on similar Enquiries, is an absolute Bar to precise and positive Information.—We must

* Vide Parish Books of the manufacturing Parts of the Country, for Militia Levies, and Maintenance of Families during the War.

be content with *general* Conclusions, drawn from *partial* Evidence; and it would be an ungenerous Return to those Individuals to whose Candour I am indebted for such Evidence, to expose it to public Scrutiny on unequal Terms with those whose narrow Policy has refused a similar Information.

I FREELY own to you my *decided* Sentiments on this Subject; when every Idea of Magnificence is excluded from the intended Plan; when every prudent Measure is adopted to manage the Finance with strict Economy; I cannot but consider the Expence, necessary to put the Laws in Force, to secure a Police, and dispence equal Justice to the People, *as a Claim on the public Stock*, to whatever Extent it may amount.—The Zeal which has already displayed itself, justifies me in presuming this to be the general Sentiment.—Should I be too sanguine in my Presumption; should it be the public Opinion that any Object should be given up from economical Considerations, there must be an End of extensive Speculation: Much local good may arise by partial Reform, but our Expectations of general Effect must be considerably reduced.

ALTHOUGH it must be admitted that the Letter of long established Laws has made the Tenant answerable for the constant contingent Demands

Demands of the Police Establishment, yet, as the present Necessity arises from a Neglect of the landed Proprietors; and as the Reform must be of great permanent Benefit to their Property, it strikes me as a severe, and, I must add, an unequitable Adherence to legal Dispensation, to lay the whole Weight on the transient Possessor. Impressed with this Idea, I cannot but accompany my Proposal with a Suggestion that the Burthen on the Tenantry ought to be alleviated.

To propose a *total* Exemption from the general Principle of a Body of Laws, would be to lose the Bill in which such dispensing Clause should be included:—Nor indeed is there any Reason for such a total Dispensation.—Great as the whole Sum may appear, should it be raised by an Assessment appropriated to the individual Purpose, the Proportions would, in many Instances, become small and fractional; and in the collecting, troublesome and expensive*.

THE Custom, in frequent Practice, of granting Leases which exonerate the Lessor “*from all Taxes that now are, or hereafter may be, imposed by Authority of Parliament, &c.*” appears to me an unsurmountable Objection. A

* The great inconveniencies of making distinct Collections for each Charge on the Country Rate, produced the Act of the 12th Geo. II.—which consolidated the Whole into one Assessment.

Statute which, by an *ex post facto* Operation, should counteract a mutual Covenant, would be an inadmissible Violence on the sacred Faith of Conveyance.

From these various Considerations I am prompted to recommend, that the principal Sum be raised by Loan on the Credit of the County Rates; whereby, the Interest only being charged on the Tenant, the Amount will not exceed his equitable Proportion.—The Loan may be effected by Way of Annuities for Lives of the Purchasers—by Tontine—or by Securities at Simple Interest, with Redemption on a sinking Fund.—Of these different Modes I am inclined to prefer that of Annuities; Their certainty as a Provision during Life, gives them a relative Value, greatly exceeding that which is founded on Calculation,—and the Difference will be a Benefit acquired to the Public.

By Tontines, the Money may probably be raised at a lower Interest than by any other Means; but, as a Relief from any Part of the Burthen of Interest must depend on the Death of the last surviving Subscriber; and as the Principal does not (as in most other Instances) by its Application create a Fund to support it, I think this Scheme liable to Objection.

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By borrowing on simple Interest, and creating a Sinking Fund to discharge the Principal in 20 Years,—the Public remain at a Certainty, and leave nothing to casual Events; but at the same Time, the present Burthen must be greater than by the other Schemes. With the worst of these Modes, I may venture to pronounce, that the annual Assessment, until the Principal is liquidated, will not be more than double that of the last Year; by either, the Money will be raised on good Terms, as the Security resting on the whole landed Property of the County, will be undeniable; and the Interest being paid at Home, will be favourable to Investments of Persons, resident in the County.

It has been hinted, that the Fund ought, in some Measure, to be left open to voluntary Donation.—To any thing of this Nature, I must object in the most decided Terms: Every such Proposal, is a Tax on the generous and public spirited, to the Relief only of the sordid and self-interested.—In Times which furnish so many Claims on the Fund of public Generosity, we should not load it with an Object foreign to its Concern.—The Design before us, cannot be stated as a charitable Purpose, nor can its Burthen fall on the Pauper; it is a public Benefit in which all are interested, in

Pro-

portion to their Property ; and in that Porportion *only* should be the Claim.

To the Bounty of the Crown, we may with greater Propriety apply.—The Custody of Prisoners, as part of the Executive Power, is strictly speaking, a Branch of the Royal Prerogative ; the Application would therefore be consistent with the Purpose.—In building the Gaol for the County of Cornwall, the King gave 2000l. from the Revenues of that Duchy.—To build the Infirmary for this County, a considerable Grant of Timber was obtained from the Forest of Dean.

ON these various Means, I shall not presume to impose my own Opinion ; it is sufficient that I have submitted them to your Judgment : When authorized by your Choice of any particular Mode, I shall be happy to promote it's best Application.

When the Scheme I have now the Honor to lay before you, is compared with the actual State of our Prisons, I shall probably be censured as a rash Intruder of new Systems on the Public ;——I have, however, been careful not to merit the Accusation ; for the whole Proposal which meets the Imagination, as so immense

menſe an Undertaking, is no more than executing the Laws hitherto neglected *.

ALTHOUGH I ſtate the preſent Powers of the Magiſtrates to be ſufficient to effect our Deſign; yet as they are derived from a Variety of Statutes little connected with each other, many Difficulties may ariſe in the Courſe of our Proceedings, which may be obviated by an Appeal to the Legiſlature, without any Alteration in the Spirit of the Laws.

If the general Senſe of the exiſting Evils, prove ſufficient to animate the County to deciſive Meaſures, it will be the *Duty* of thoſe who conduct this generous Effort, to give it every poſſible Effect; and it will be the *Interſt* of the Public, that ſuch Powers ſhould be obtained, as will lead moſt directly and moſt unequivocally to that End.

SOME good Effects muſt be expected from Public Bills, during the approaching Sessions of Parliament.—The Bill lately introduced by *Sir Cecil Wray*, for the Amendment of the Act of 11th and 12th W. will be reſumed; and Government will probably be brought to ſome final Reſolution, reſpecting the Penitentiary Plan.—It will be proper therefore to wait the Reſult, before we proceed by Private Bill.

* Vide the different Statutes mentioned in my firſt Addreſs.

As it is impossible that the Business can take its Commencement from better Grounds, than the Meeting of this Day—if I should be so fortunate as to convince you of the Necessity of the Undertaking, I shall propose, that a standing Committee be appointed, as the Delegates of the Meeting; and that it consist of Gentlemen, who, in offering their Services, are mutually pledged to attend future Proceedings, in such Proportion as that the Business may neither be neglected, or become burthensome to any.

The Committee so appointed, will indeed, as such, be incompetent to any regular legal Proceeding; yet as they must be presumed to consist principally of Magistrates, and as their Sitzings may be held during the Time of Quarter Sessions, they may confirm in Court their Resolutions as a Committee. Although an Attention to the Building of the Prisons will be their *chief* Concern, it will not be their only Duty; various and complicated are the Abuses and Evasions of the Law, which obstruct the due Administration of Justice,—not less various must be the Researches of those who would correct them.—The Mystery which screens the Demands of Office from general Notoriety, is a Source of infinite Oppression, continued in Defiance of positive Statutes to prevent it;—
and

and more consonant to the Proceedings of a Court of Inquisition than of English Law.

ENCOURAGED by your Confidence, I have thus presumed to state my Ideas, in the Form of a practical Proposition. If I have wearied your Attention, I must entreat your Indulgence in favour of a Precision necessary to the Occasion.

It remains now that I submit my Proposal to the Chair, and wait your final Decision on its Merits.

THE following Questions being respectively put by the Chairman,

It was *unanimously* Resolved,

THAT the Prisons of this County are inadequate to the Purposes of the Law, and destructive to the Health and Morals of Prisoners.

THAT it is the Opinion of this Meeting, that the Plan of Reform recommended by Sir George Paul, should be adopted in its full Extent.

AND, That a Committee be appointed to carry it into Execution.

CONCLUSION.

FROM the Nature of the Applications that have induced me to this Publication, I have ample Testimony that the Example I have reported has produced a considerable Effect on the Intentions of other respectable Counties: —I flatter myself, therefore, I shall be excused, if, in my Zeal to derive every possible Advantage from this Glow of public Spirit, I presume to call the Attention of the Legislature, to the Expediency of such general and decisive Parliamentary Regulations as would unite the various County Exertions into one effective System of national Police.

THE actual State of Police of this Kingdom is the Disgrace of its Government; —If the Observation were true, —*That the Freedom of our Constitution is an Obstacle to Amendment*; I would not hesitate to say, —*It is Time it should be dissolved*; —The End of every political Establishment being the utmost possible Security of Life and Property to the Society over which it superintends, when that Security is not attainable, the Purpose fails, and the social Compact remains an unmeaning Obligation; —But no such absurd Consequence can be drawn from the

the Nature of our civil Institution ;—There exists no Freedom in this Country which acts against the general Good, except that of thinking ourselves dispensed from public Duties.—It appears from the Preambles to our oldest Acts on this Subject, that the Grievance we complain of, existed in the last Age,—The Statute-Book is Proof with what a constant and renewed Attention, the Legislature has recommended a Reform,—Present Experience is convincing how far these *Recommendations* have been attended to ;—When Indolence and the little Interests of Mankind militate against such Regulations as are essential to the well-being of Community ; it is Time for the Legislature to interpose its *decisive* Authority, and render those Regulations *positive* ;—If the good Purposes of a Law are undeniable—sound Policy requires that its Execution should be made *compulsory*.—I am aware on what tender Grounds I speak of *Compulsion* to Men accustomed to an unlimited Application of the word *Liberty* ;—But Freedom in a State is by no Means a Dispensation from Duty,—on the contrary—the public Obligations of Individuals increase with the Degree of constitutional Liberty ;—In every State there must be a controuling Power in Exercise, and the Share of it which is withheld from the *Chief* Magistrate and is lodged with the private Citizen, is the inestimable

Privilege of his Freedom ;—A Privilege of which should he neglect to avail himself, Confusion must ensue, or (at the risk of civil Liberty) it will be exercised by the Crown.

I hope I shall be excused the introducing so much of general Argument on a limited Subject ;—But, as it is the Nature of Regulations of Police that their local Utility will be infinitely encreased by the Universality of the Exertion, it is my Duty, even on the narrow Grounds of a County Advocate, to plead for a general Operation of the Design in View ;—It has been demonstrated in the Instance of a particular County, that, notwithstanding every Attention of the Gaoler to his Duty, its Prisons are the Sources from whence Disease, Pestilence, and Infamy, are diffused thro' the County, that they are oppressive to the Unfortunate, and incompetent to the Punishment of the Vicious ;—We have the undeniable Evidence of Mr. HOWARD's Reports that these *Defects* are not peculiar to any one District ; the enormous Excesses that daily encrease thro' the Kingdom are sufficient Indications that the Consequences are *universal*.

If it be admitted that the proposed Reform requires no new Principle of Legislation, but that it is fully within the Reach of a revival of
existing

existing Statutes—or of new Regulations on established Grounds, if attended with decisive Measures to enforce them ;—What can be said for that Torpor in the ruling Powers that prevents an Attention to such Enormities ?—Are the Interests of internal Security of no Respect in the Purposes of Government ?—Must the Resources of the State be exerted, even to a ruinous extreme, on every Ipeculative Apprehension from foreign Violence—whilst we nourish in our Bosom a domestic Enemy in actual Array ?

THE Question is indeed in some Shape before the House by Bill introduced by Sir GREVILLE WHARF—It will again appear by Motion on the Penitentiary Bill under the Auspices of another humane and worthy Baronet ;—Essential as these Motions may be to the immediate Objects of their Attention, they must fall infinitely short of radical Reform ;—The meritorious Exertions of individual Counties cannot indeed fail in their Design to promote the Purposes of Humanity within their respective Limits ;—But if we would give them an effectual Operation towards a general Police, they must be directed by such an Intelligence of Plan and Regulation as can alone be produced by a Statute of general and decisive Obligation.

THE

THE Impediments to a due Administration of Justice have been so ably enlarged upon by Men of superior Abilities and Experience, that I shall not venture far on the Subject;—The Defect in Number and Respectability of the acting Commissioners of the Peace;—The Impunity—arising from the Expence of Prosecution—from the distant Situation or Non-Existence of Prisons for the smaller Crimes,—and from the Connivance of Parish Officers with a View to screen the Poors' Rate;—The inadequate Appointment, and total Relaxation of Discipline amongst the inferior Officers of Justice, and a consequent Disuse, or ineffectual Application of the lesser Corporal Punishments, are Grievances evident to the simplest Observation.

To these Neglects of Law may be added some Instances of vexatious Execution—The Proceedings on Exchequer Process are (notwithstanding the 4th G. III.) frequently attended with Oppression scarcely equalled in despotic Countries;—The Jurisdiction of inferior Courts are so many Exemptions from the ordinary Spirit of national Justice; from their Insignificance they lose that public Notoriety which is the Genius of British Judicature—The Emoluments of their Administration often depend on the quantum of Oppression—and

—and the Execution of their Edicts not less frequently remains at the Discretion of the Outcasts of superior Courts.

It is greatly to be feared, that in these Times of political Dissention, much cannot be expected from ministerial Exertion ;—unhappily for this Country, the Attention and Abilities of public Men, while engaged in directing Systems of Influence, are lost to the public Service, and Purposes of simple Benefit to Society lose their Importance in the eternal Struggle for Power ;—To wait the Hour of Union and Cordiality would be a Dream too delusive for Men in earnest to perform :—To the Protection of the independant and unambitious Part of the Representation therefore I recommend the Cause before me, in full Conviction, that if the Resolutions of the County of Gloster were those of the Kingdom at large ;—and if they were supported by a general Bill of Regulation, founded on the Principles of the Laws in being —a perfect national Police must be the important and unavoidable Consequence.

It may be thought impolitic to propose the Conduct of a severe System of Reform, to those whose Voice in the Legislature depends on popular Opinion.—It may be suggested, that the *illiberal*, which is the more numerous, Part of Mankind, will cherish that Neglect and Collusion

lusion which dispense them from moral Obligations; that they will be sensibly affected by Sacrifices of present Gratification, whilst they disregard the Prospect of remote Benefits.

To the ungoverned Efforts of hasty Resentment, the Popularity of good Men may for a while be sacrificed—But as the Security and good Order of a Community cannot fail to be the best Interest of the Individuals who compose it; such as those to whom I appeal, will dare the Effect of a first Impression, and wait the Hour of Conviction.— If such Men are not bold and determined as they are disinterested in the Service of their Country---we have little indeed to hope in this Moment of accumulating Evils.

F I N I S.



